

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

FILED
U.S. DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

-PSO-

JACK LOCKETT, 01-B-0994,

Petitioner,

-v-

JAMES T. CONWAY,

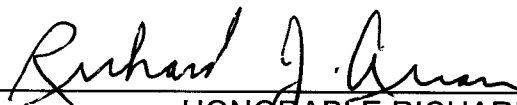
Respondent.

DECISION AND ORDER
05-CV-6327L(Fe)

Petitioner has responded to the July 5, 2005 Order, in which he was directed to address the exhaustion of the claims raised in his petition seeking relief pursuant to 28 U.S.C. § 2254. Petitioner has a pending state court writ of error coram nobis. He informs the Court that he wishes to withdraw his petition in order to complete this collateral attack on the state conviction.

Accordingly, the petition is dismissed without prejudice, as withdrawn. Fed.R.Civ.P. 41(a)(1)(i); Rules Governing Section 2254 Cases, Rule 4. Petitioner is reminded that any future petition challenging this conviction will be subject to the applicable statute of limitations, which are tolled only "during the time in which a properly filed application for State post-conviction or other collateral review ... is pending." 28 U.S.C. § 2244(d)(2).

IT IS SO ORDERED.



HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

Dated: Aug. 23, 2005